



UNITED STATES PATENT AND TRADEMARK OFFICE

APR 29 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Office of Regulatory Policy
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

The attached application for patent term extension of U.S. Patent No. 6,939,971 was filed on March 26, 2009, under 35 U.S.C. § 156. Please note that Applicant has also applied for extension for U.S. Patent No. 6,462,058 and U.S. Patent No. 6,664,276 for NDA No. 22-287 pursuant to the provisions of 37 C.F.R. § 1.785.

The assistance of your Office is requested in confirming that the product identified in the application, KAPIDEX™ (dexlansoprazole), has been subject to a regulatory review period within the meaning of 35 U.S.C. § 156(g) before its first commercial marketing or use and that the application for patent term extension was filed within the sixty-day period beginning on the date the product was approved. Since a determination has not been made whether the patent in question claims a product which has been subject to the Federal Food, Drug and Cosmetic Act, or a method of manufacturing or use of such a product, this communication is NOT to be considered as notice which may be made in the future pursuant to 35 U.S.C. § 156(d)(2)(A).

Our review of the application to date indicates that the subject patent would be eligible for extension of the patent term under 35 U.S.C. § 156.

Inquiries regarding this communication should be directed to the undersigned at (571) 272-7755 (telephone) or (571) 273-7755 (facsimile).

Mary C. Tili
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Douglas P. Mueller
Hamre, Schumann, Mueller & Larson, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902